



REDUCING MICHIGAN EVICTIONS:

THE PANDEMIC AND BEYOND

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Elizabeth Benton,¹ Margaret Dewar,² Robert Goodspeed,² Robert Gillett³

Prepared with the support of U-M Poverty Solutions and the Michigan State Planning Body. The project team can be contacted at michiganevictions@umich.edu.

KEY FINDINGS

- As a result of the pandemic, evictions have become a **major housing policy focus** as state and federal policymakers have sought to promote housing stability, protect public health and support economic recovery by reducing evictions.
- In response to the pandemic, the federal and state governments, state court system and local governments rapidly adopted many changes, including **increasing emergency rental assistance funding, expanding eviction diversion programs** statewide and **changing court procedures** to give tenants an opportunity to connect with services and protect their rights.
- As a result of these changes, along with local court closures and state and federal eviction moratoriums, eviction case filings fell precipitously in Michigan from over 14,000 cases per month to near zero in summer 2020, returning to only about **two-thirds their pre-pandemic levels** by late 2020. Court-ordered evictions as a percent of cases filed also fell, but the eviction rate has edged up in 2021.
- Michigan's statewide Eviction Diversion Program (EDP), which operated from July-December 2020, **dramatically increased the number of tenants receiving legal assistance and representation in eviction cases**. EDP-funded legal aid staff provided some level of assistance to tenants in 15,234 eviction cases, 32% of the eviction cases filed during the program. In the cases where legal aid provided extensive services, 97% of **tenants avoided eviction**.
- **Stakeholders should act now** to make key pandemic-era changes permanent to continue to prevent a wave of harmful pandemic-related evictions and a return to high pre-pandemic eviction levels.

¹ Legal Services of South Central Michigan. The authors note that LSSCM is funded in part by the Legal Services Corporation (LSC), which is subject to certain restrictions on permissible advocacy. Elizabeth Benton, as a staff member of an LSC grantee, is prohibited from making explicit policy recommendations. As such, neither Ms. Benton nor LSSCM endorses or opposes any of the recommendations in this report. Further, Ms. Benton did not propose or advocate for any specific government policies during her work on this paper, nor did she engage in any other LSC restricted activity.

² Urban and Regional Planning Program, Taubman College of Architecture and Urban Planning, University of Michigan

³ Attorney and Chair, Housing Committee, Michigan State Planning Body

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1. INTRODUCTION

In May 2020, University of Michigan's Poverty Solutions published the first comprehensive report on evictions in Michigan. The report included recommendations for reforms aimed at reducing the number of eviction filings, creating a fairer and more just eviction process, and reducing the harm of eviction filings. This new report takes stock of Michigan evictions and the report's recommendations one year later, as the pandemic has threatened an unprecedented wave of evictions in the context of many policy and programmatic changes. This report updates the recommendations for reform.

The 2020 report and policy brief⁴ analyzed data from several sources, including case-filing data from 2014-2018 obtained from the Michigan State Court Administrative Office's Judicial Data Warehouse and case-level data from random samples of cases in Washtenaw and Lenawee Counties obtained through in-court document review. Even before the pandemic, in better economic times, Michigan had extremely high eviction filing rates, courts across the state grappled with large numbers of eviction cases and few tenants had access to an attorney or asserted their legal rights in the eviction process. Key findings included:

- Michigan's eviction filing rate was 17% in 2018 — or the equivalent of 1 eviction case for every 6 occupied rental housing units in the state. These cases likely led to almost 40,000 court-ordered evictions each year.⁵

- The number of eviction filings in Michigan has declined since 2011, but Michigan's 17% eviction filing rate was much higher than rates documented in other jurisdictions with comparable data quality — Chicago with 3.9%, Philadelphia over 7% and Cincinnati (Hamilton County) at 8.7%.
- An attorney represented only 4.8% of tenants in eviction cases 2014-18, compared to 83.2% of landlords.
- Census tracts with high numbers of single-mother households, mortgage foreclosures and people living in mobile homes had higher eviction filing rates.⁶
- In urban areas, tracts with more Black people, children, and higher vacancy rates correlated with higher rates of eviction filings.

These findings caused concern even before the pandemic. A growing body of research has documented the detrimental effects of eviction on individuals, households and neighborhoods. This evidence suggests that eviction is not merely a symptom of poverty but also a cause of it.⁷ People who experience eviction are more likely to lose their jobs,⁸ experience depression,⁹ and rate their health as fair or poor.¹⁰ Households who move as a result of an eviction, rather than by choice, move to poorer, higher-crime neighborhoods¹¹ and are more likely to experience problems with their new housing like broken appliances, exposed wires, or lack of heat.¹²

⁴ Robert Goodspeed, Kyle Slugg, Margaret Dewar, and Elizabeth Benton, *Michigan Evictions: Trends, Data Sources, and Neighborhood Determinants* (Ann Arbor, MI: University of Michigan Poverty Solutions, May 2020), <https://poverty.umich.edu/files/2020/06/Michigan-Eviction-Project-working-paper.pdf>; Robert Goodspeed, Margaret Dewar and Jim Schaafsma, "Michigan's Eviction Crisis" [Policy Brief, University of Michigan Poverty Solutions, Ann Arbor, MI, May 2020], <https://poverty.umich.edu/files/2020/06/Michigan-Eviction-Project-policy-brief.pdf>. The work was funded by the University of Michigan Poverty Solutions and Detroit Community-Academic Research Center's 2019 Community-Academic Research Partnership Grant Program.

⁵ In 2018, Michigan landlords filed a total of 191,512 eviction cases.

⁶ Robert Goodspeed, Elizabeth Benton, and Kyle Slugg, "Eviction Case Filings and Neighborhood Characteristics in Urban and Rural Places: A Michigan Statewide Analysis," *Housing Policy Debate* (February 2021 online), DOI: 10.1080/10511482.2020.1867882.

⁷ Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," *American Journal of Sociology* 118, no. 1 (July 1, 2012): 88-133; Matthew Desmond and Monica Bell, "Housing, Poverty, and the Law," *Annual Review of Law and Social Science* 11, no. 1 (2015): 15-35; Matthew Desmond and Tracey Shollenberger, "Forced Displacement From Rental Housing: Prevalence and Neighborhood Consequences," *Demography* 52, no. 5 (October 2015): 1751-1772.

⁸ Matthew Desmond and Carl Gershenson, "Who Gets Evicted? Assessing Individual, Neighborhood and Network Factors," *Social Science Research* 62 (February 1, 2017): 362-377.

⁹ Matthew Desmond and Rachel Kimbro, "Eviction's Fallout: Housing, Hardship and Health," *Social Forces* 94 (February 24, 2015); Hugo Vásquez-Vera, Laia Palència, Ingrid Magna, Carlos Mena, Jaime Neira and Carme Borrell, "The Threat of Home Eviction and Its Effects on Health through the Equity Lens: A Systematic Review," *Social Science & Medicine* (1982) 175 (2017): 199-208.

¹⁰ Desmond and Kimbro, "Eviction's Fallout."

¹¹ Desmond and Shollenberger, "Forced Displacement From Rental Housing."

¹² Matthew Desmond, Carl Gershenson, and Barbara Kiviat, "Forced Relocation and Residential Instability among Urban Renters," *Social Service Review* 89, no. 2 (June 1, 2015): 227-262.

Moreover, the report's findings showed that Michigan's eviction rates are a racial justice issue. The 2020 report and other recent studies show that evictions disproportionately hurt racial minorities, women, and families with children. Nationally, Black renters face eviction at higher rates than other racial groups and Black and Latinx female renters face higher eviction rates than men.¹³

The pandemic and threatened wave of evictions have brought increased attention to Michigan's eviction crisis. Policymakers across the country recognize that evictions pose risks not only to the health of evicted tenants but also to public health. Policymakers have also recognized that eviction filings and judgments during the pandemic threaten tenants' long-term housing stability by making future housing searches more difficult. As a result, the federal and state governments, the state court system, and local governments rapidly adopted many changes, including increasing emergency rental assistance funding, expanding eviction diversion programs, and changing court procedures governing the eviction process to give tenants an opportunity to connect with services and exercise their rights. The pandemic and anticipated wave of eviction filings also resulted in eviction moratoriums and tenant activism that were unimaginable when the 2020 report was published.¹⁴

To understand the effects the pandemic and these policy changes have had on Michigan evictions, this updated report relies on two primary data sources, as well as insights and feedback provided through consultation with legal stakeholders. We shared an outline and a draft of the document with the Michigan State Planning Body, a network that serves as a forum for planning and coordinating delivery of civil and criminal legal services to the poor, to solicit feedback from representatives of legal aid programs, the judiciary, and housing law experts. We also drew on the work of housing policy analysts and advocates in analyzing housing problems and seeking ways to save households from eviction in the pandemic and economic downturn.

The data so far show that the policy responses have reduced the number of cases filed as well as the percentage of cases resulting in eviction orders. Because many more renters were facing income losses, illness, and increased expenses, we expected an increase in eviction filings. But only about two-thirds as many cases were filed in the final six months of 2020 as in the same months in 2019.¹⁵ In Section 3, this report describes the reforms in more detail and recommends further actions going forward in seven areas: (1) moratoriums, (2) emergency rental assistance, (3) eviction diversion programs, (4) eviction procedure changes, (5) eviction data, (6) tenant organizing, and (7) housing affordability.



¹³ Peter Hepburn, Renee Louis, and Matthew Desmond, "Racial and Gender Disparities Among Evicted Americans," *Sociological Science* 7, no. 27 (December 16, 2020): 649-662; Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," *American Journal of Sociology* 118, no. 1 (July 1, 2012): 88-133.

¹⁴ The policy responses to the pandemic continue to change. The policy descriptions and recommendations are current as of early May 2021.

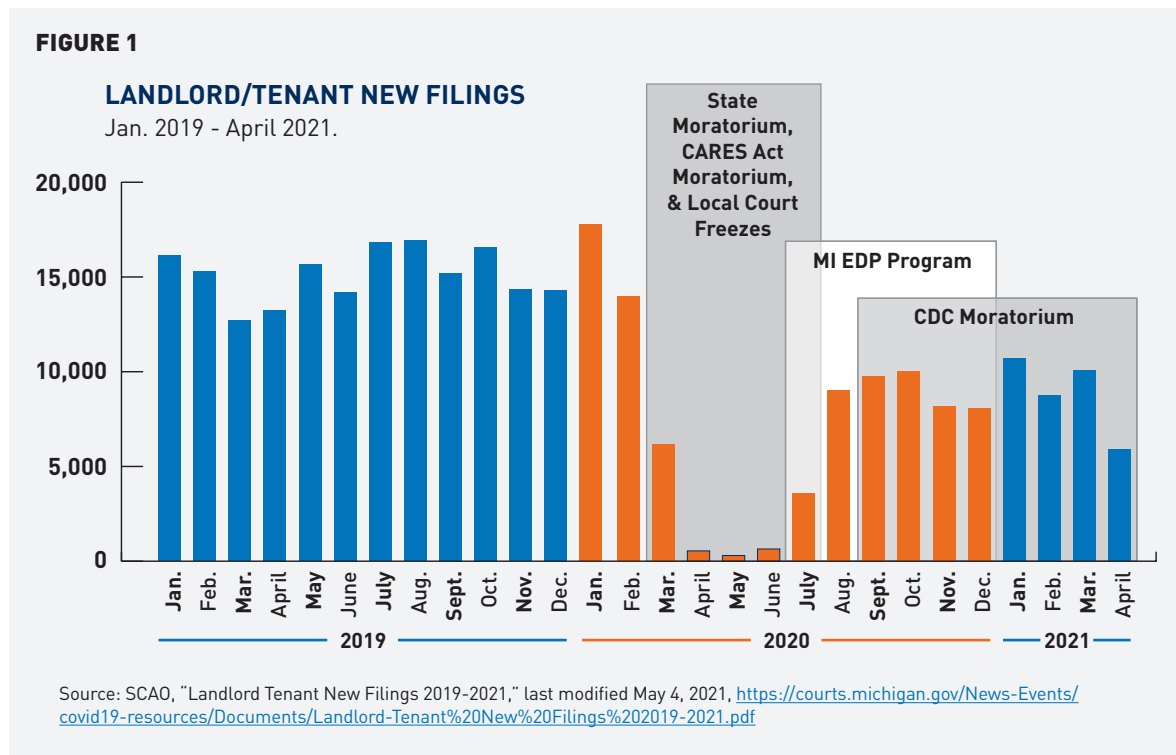
¹⁵ State Court Administrative Office (SCAO), "Landlord Tenant New Filings 2019-2021," last modified May 4, 2021, <https://courts.michigan.gov/News-Events/covid19-resources/Documents/Landlord-Tenant%20New%20Filings%202019-2021.pdf>; SCAO, "Eviction Rate," last modified May 4, 2021, <https://courts.michigan.gov/News-Events/covid19-resources/Documents/Eviction%20Rate.pdf>.

2. MICHIGAN EVICTIONS DURING THE PANDEMIC

The number of new eviction cases filed in Michigan declined significantly during the pandemic.¹⁶ Before the pandemic, in 2019 and the first two months of 2020, between 12,000 and 18,000 eviction cases were filed each month (Figure 1).¹⁷ During the pandemic, as a result of court closures, moratoriums, and emergency financial assistance described below, caseloads dropped to near zero from mid-March through July, when some courts began to reopen. From August 2020 through January 2021, 8,000 to 10,000 cases were filed each month. In total, the number of eviction cases filed between April and

December 2020 represents a 65% decrease from the number of cases filed during those months in 2019.¹⁸

The percentage of cases resulting in evictions has also fallen during the pandemic (Figure 2).¹⁹ From April through December 2019, 29% of cases resulted in eviction orders, which allow a court officer, bailiff, sheriff, deputy sheriff, or police officer to remove the tenant and the tenant's personal belongings from the property.²⁰ During the same period in 2020, only 10% of cases resulted in eviction orders. The number of cases with eviction orders fell 87% from April through December 2019 to 2020. Nevertheless, the eviction rate increased at the end of 2020, with 11% of cases filed in November and 17% of cases filed in December resulting in evictions. These courts entered 4,001



¹⁶ Ibid. The SCAO has published the total number of new eviction cases filed each week from the courts for which it received data from 2019-present. The SCAO's data includes new filings from courts that handled 93.5% of all the state's eviction cases in 2019. The SCAO's data does not include cases from Berrien County, Grand Rapids, Dearborn Heights, Centerline, Warren, northern Macomb County, Grandville and Walker. The estimate of the share of eviction cases covered is based on comparing the SCAO eviction analysis to data contained in the SCAO's Caseload Reports, which include all courts. State Court Administrative Office, "Caseload Reports," <https://courts.michigan.gov/education/stats/caseload/Pages/default.aspx>.

¹⁷ For an overview of Michigan's legal eviction process and glossary of key terms, see appendix on page 23.

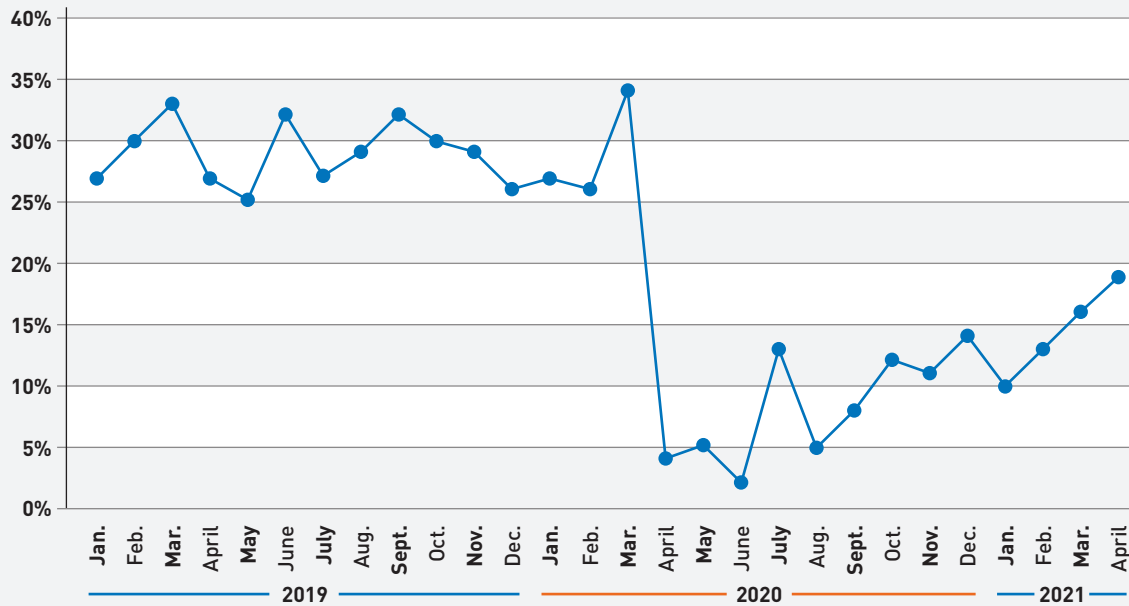
¹⁸ SCAO, "Eviction Rate."

¹⁹ According to SCAO, these data represent "The number of event codes in the case management system entered by the trial court in an Landlord-Tenant (LT) case when the court enters an order for eviction. Although courts can enter that event code on each defendant in a case, few cases had more than one eviction order on a single case." Laura Hutzel, SCAO Statistical Research Director, email message to R. Goodspeed, January 21, 2021. This data set contains information from local courts that provide case outcome data to the SCAO. This is a smaller subset of courts than provided the case filing data used to calculate the case filing numbers above — about 77% of the nearly 50,000 landlord-tenant cases filed during this period. The eviction orders in a given month often apply to eviction cases filed prior to that month.

²⁰ MCL 600.5744; MCR 4.201(L). The entry of an eviction order makes it very likely, but not certain, that the tenant has been forced to move. Some tenants in cases with eviction orders may have paid their debt or given their landlord a CDC declaration and therefore remained in the property.

FIGURE 2

EVICTON RATE, SELECTED MICHIGAN COURTS | Jan. 2019 - April 2021



Note: The cases resulting in evictions are often not the cases filed that month because decisions may not occur in the same month. Source: SCAO, "Eviction Rate," last modified May 4, 2021, <https://courts.michigan.gov/News-Events/covid19-resources/Documents/Eviction%20Rate.pdf>.

eviction orders between April and December, 2020. The percentage of cases resulting in eviction orders has increased to 20% in April 2021. Applying the eviction rate derived from courts providing detailed data to SCAO to the number of case filings in all courts statewide from April 2020 through April 2021, Michigan courts are likely to have entered eviction orders in as many as 9,979 cases during the pandemic.

3. RECOMMENDATIONS TO REDUCE MICHIGAN EVICTION FILINGS AND EVICTIONS IN LIGHT OF CHANGES DURING THE PANDEMIC

This section provides an overview of the local, state, and federal responses to the eviction crisis enacted since

the publication of the 2020 report. Each subsection makes recommendations for improvement.

A. MORATORIUMS

UPDATES

Since March 2020, state and federal law and local court practices have temporarily halted eviction cases and evictions in different ways and over different periods of time:

- At the beginning of the pandemic, many local courts closed or issued local orders staying all eviction cases.²¹
- Governor Whitmer imposed a moratorium on residential evictions from March 20 through July 16, 2020.²²

²¹ At the end of July, local courts began to reopen, accept new filings, and hear cases, but the pace and nature of reopening varied greatly across the state. Some courts rushed to reopen, while others took a more cautious approach, and still others reopened but closed again when cases surged in the fall. For example, Detroit's 36th District Court suspended nearly all eviction hearings for a period in November and December, only reopening around January 4. Nushrat Rahman, "What Detroit court's closure means for landlords and tenants," *Detroit Free Press*, November 19, 2020, <https://www.freep.com/story/news/local/michigan/detroit/2020/11/19/detroit-court-closes-curb-covid-19-spread/3776204001/>.

²² Mich. Exec. Order Nos. 2020-19, 2020-54, 2020-85, 2020-118 and 2020-134, https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-522509--,00.html. The moratorium prohibited the service of demand for possessions, complaints, and writs of evictions. An exception allowed for the removal of tenants if they posed a substantial risk to another person or an imminent and severe risk to property.

- The federal Coronavirus Aid, Relief and Economic Security (CARES) Act imposed a moratorium that prevented many, but not all, landlords from filing new eviction cases for nonpayment of rent or charging late fees from March 27-July 24, 2020.²³
- On September 4, 2020, the Centers for Disease Control and Prevention (CDC) imposed a national moratorium on residential evictions to remain through June 30, 2021.²⁴

CDC MORATORIUM

The CDC’s national moratorium is the only remaining moratorium protecting Michigan tenants, and its protections may end soon. Unless the CDC extends the moratorium, it will expire on June 30. Landlords have also filed cases asking federal courts to invalidate the moratorium, which may be decided in the coming months.

To be eligible for its protections, tenants must give their landlord a signed declaration attesting that they meet five requirements:

1. They fall into one of three categories: (1) received a stimulus check under the CARES Act, (2) expect to make no more than \$99,000 in 2021, or (3) were not required to report any income in 2020 to Internal Revenue Service (IRS).
2. They were unable to pay their rent because of substantial loss of household income, loss of work or wages, or unreimbursed medical expenses.
3. They are making their best effort to make timely, partial rent payments based on their circumstances.

4. They would likely be homeless or need to “double-up” if they were evicted.
5. They have made their best efforts to obtain government assistance.

The CDC moratorium does not prevent landlords from evicting tenants who engage in criminal activity at the property, threaten the health or safety of other residents, damage or pose a significant risk to property, violate local health, safety, or building codes or ordinances, or violate other terms of the lease.

In addition to these specific exceptions, the CDC moratorium has several gaps, which continue to allow tenant displacement and undermine public health goals:²⁵

- The moratorium is opt-in. To prevent eviction, tenants must know about the moratorium, complete the declaration, and give it to their landlord. The CDC has taken few steps to publicize the moratorium, many tenants have difficulty finding and printing the form.²⁶
- The CDC and Michigan’s State Court Administrative Office have interpreted the moratorium to prohibit only the execution of eviction orders, allowing landlords to file cases and those cases to proceed to a judgment against the tenant.²⁷ Many tenants may move out after receiving a demand for possession or summons and complaint. Tenants who take advantage of the order’s protections will have an eviction filing and judgment on their record, which will make finding future housing more difficult. And the tenants who stay know their landlord has a judgment against

²³ Coronavirus Aid, Relief and Economic Security (CARES) Act (P.L. 116-136), Section 4024. These protections applied to tenants who had section 8 vouchers, lived in federally subsidized housing, or had a landlord with a federally backed mortgage. This moratorium likely covered 28-45% of all renter households. Sarah Stein and Nisha Sutaria, “Housing Policy Impact: Federal Eviction Protection Coverage and the Need for Better Data,” Federal Reserve Bank of Atlanta, <https://www.frbatlanta.org/community-development/publications/partners-update/2020/covid-19-publications/200616-housing-policy-impact-federal-eviction-protection-coverage-and-the-need-for-better-data.aspx>.

²⁴ Centers for Disease Control and Prevention, “Temporary Halt in Residential Evictions to Control the Further Spread of COVID-19,” <https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDC-Eviction-Moratorium-01292021.pdf>. The COVID Relief Act extended the moratorium from December 31, 2020 to January 31, 2021. At the end of January, the CDC extended the moratorium through March 31, 2021. At the end of March, the CDC extended it again through June 30, 2021. Recently, several federal district courts have declared the Order unconstitutional, potentially undermining tenants’ ability to use the Order to prevent eviction. See e.g. *Tiger Lily LLC v. HUD*, No. 2:20-cv-02692 (W.D.Tenn.); *Alabama Ass’n of Realtors v. U.S. Dep’t of Health and Human Serv.*, No. 1:20-cv-03377(D.D.C.).

²⁵ The National Low Income Housing Coalition and over 2,000 organizations sent a letter to the Biden Administration on January 15 recommending these reforms. Letter to President-Elect Biden, CDC Director-designate Rochelle Walensky and Department of Housing and Urban Development Secretary-Designate Marcia Fudge, January 15, 2021, <https://nlihc.org/sites/default/files/Recommended-Eviction-Moratorium-Letter-FINAL.pdf>

²⁶ U.S. Government Accountability Office, GAO-21-370, *COVID-19 Housing Protections: Moratoriums Have Helped Limit Evictions, But Further Outreach Is Needed* (2021), <https://www.gao.gov/assets/gao-21-370.pdf>

²⁷ HHS/CDC Temporary Halt in Residential Evictions to Prevent the Further Spread of Covid-19 Frequently Asked Questions, <https://www.cdc.gov/coronavirus/2019-ncov/downloads/eviction-moratoria-order-faqs.pdf>



them and can put them on the street immediately when the moratorium ends.

- Many local courts have wrongly interpreted the moratorium to apply only to cases brought for nonpayment of rent, allowing landlords to evict tenants when their leases have expired or with one month's notice if they lack a lease.²⁸

Federal and state policymakers have paired the moratoriums with programs and policies designed to support landlords. Even without the moratoriums many landlords, especially smaller landlords, are likely to have lost income during the pandemic because of tenants' inability to pay, which could result in a loss of available rental housing. Policymakers have provided emergency rental assistance funding, described in more detail in the next section, which both provides for landlords to receive the full rent owed and ensures that nonpayment evictions are prevented, not simply delayed, until the expiration of the moratorium. Some landlords may also be eligible for financial assistance through the Small Business

Association's Economic Injury Disaster Loan Program or Paycheck Protection Program.²⁹ Landlords with federally backed multifamily loans are protected by a foreclosure moratorium and eligible for mortgage payment forbearance through June 30, 2021.³⁰

Landlord opposition to the moratoriums and the emergency funding programs has increased over time. These programs are intended to benefit landlords — and do so in most cases. Throughout the pandemic the rental real estate industry has needed shoring up — by preventing the displacement of tenants and by ensuring ongoing cash flow to landlords. State policymakers should reach out to property owners to encourage their buy-in to these programs and should work with local officials and organizations to contact landlords to ensure owners of smaller numbers of properties know about the benefits of participation. Landlords should engage with state policymakers and with tenant advocates to shape programs that address the needs of all stakeholders.³¹

²⁸ The Order should be read to prevent evictions other than those falling within the five enumerated categories. Courts have been split on this issue, with many local courts permitting landlords to terminate tenancies at the end of the lease period without cause, even if the landlord's underlying motive is nonpayment of rent.

²⁹ Apartment Association of Greater Los Angeles, "The CARES Act Help for Landlords Through the Small Business Administration," April 17, 2020, <https://aagla.org/2020/04/the-cares-act-help-for-landlords-through-the-small-business-administration/>.

³⁰ Federal Housing Finance Agency, "FHFA Extends COVID-19 Multifamily Forbearance through June 30, 2021" March 4, 2021, <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-COVID-19-Multifamily-Forbearance-through-June-30-2021.aspx>

³¹ A survey of emergency rental assistance programs showed that more stringent requirements for participating landlords was associated with less participation [Vincent Reina, Claudia Aiken, Julia Verbrugge, Ingrid Gould Ellen, Tyler Hauptert, Andrew Aurand, and Rebecca Yae, "COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs" (Research Brief, Penn Housing Initiative, NYU Furman Center, National Low Income Housing Coalition, January 2021), https://www.housinginitiative.org/uploads/1/3/2/9/132946414/hip_nlihc_furman_brief_final.pdf].

RECOMMENDATIONS

The **federal government** should strengthen and extend the CDC moratorium by taking the following actions:

- A1. Require landlords and eviction courts to notify tenants of their rights under the moratorium.
- A2. Prohibit landlords from filing or advancing eviction cases if they have received a signed declaration from a tenant that meets the CDC requirement.
- A3. Clarify that the moratorium covers all evictions other than those specifically excluded under the order.
- A4. As the Government Accountability Office has recommended, develop and implement a communication and outreach plan to ensure that eligible renters and property owners are aware of and able to use the moratorium to prevent eviction.
- A5. Defend the moratorium from legal challenges and continue to extend it until the conditions in recommendation A6 are met.
- A6. Develop a plan to prevent mass evictions when the moratorium is phased out. Such a plan should include the following features:
 - 6.1. The moratorium should not be lifted until overall COVID-19 case numbers (new case rates; hospitalization rates; positive test rates) are at predefined safe levels for a minimum of 60 days to enable tenants time to apply for emergency rental assistance and have their applications processed.
 - 6.2. Emergency rental assistance programs and tenant procedural protections should be made permanent.
 - 6.3. Courts should have discretion to delay cases and eviction orders to lessen impacts in local areas where many evictions may occur.

- A7. Continue to provide financial assistance and mortgage and foreclosure relief to landlords, especially smaller landlords, for at least the duration of the moratoriums.

Michigan's governor should:

- A8. Reimpose a broad state moratorium on residential evictions that fills the gaps in the federal moratorium.³³

Michigan's State Court Administrative Office should ensure tenants realize the protections of the moratorium by taking the following actions:

- A9. Require landlords and eviction courts to notify tenants of their rights under the moratorium.
- A10. Prohibit landlords from filing or advancing eviction cases if they have received a signed declaration from a tenant that meets the CDC requirement.
- A11. Clarify that the moratorium covers all evictions other than those specifically excluded under the order.

B. EMERGENCY RENTAL ASSISTANCE**UPDATES**

Loss of jobs and income due to the pandemic has put large numbers of Michigan households at risk of losing their homes due to eviction. As of the end of March 2021, roughly 12% of Michigan adult renters, about 210,000 individuals, were not caught up on rent.³⁴ To prevent at least some of these renters' loss of housing and their landlords' loss of rent payments, federal, state, and local governments have provided substantial emergency rental assistance:

- In July 2020, Michigan used CARES Act funding to provide \$50 million in new emergency rental assistance. These funds were distributed through

³² U.S. Government Accountability Office, GAO-21-370.

³³ The governor should reimpose a state moratorium regardless of the status of the federal moratorium, but state action would be especially important if the CDC fails to extend the moratorium or if a federal court invalidates the CDC order (Glenn Thrush, "Federal judge strikes down moratorium on evicting renters," *New York Times*, May 5, 2021).

³⁴ "Tracking the COVID-19 Recession's Effects on Food, Housing and Employment Hardships," Center on Budget and Policy Priorities, updated April 8, 2021, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and>. Calculations are based on the Census Bureau Household Pulse Survey.

local Housing Access and Resource Agencies (HARAs) as part of the state's Eviction Diversion Program (EDP).³⁵ See Section 3(C).

- In December 2020, the federal COVID Relief Act provided an additional \$25 billion in emergency rental assistance; Michigan received about \$661 million of those funds.³⁶ The Michigan State Housing Development Authority (MSHDA), the state's housing finance agency, is distributing this funding through a new COVID Emergency Rental Assistance (CERA) program through local HARAs.³⁷ Because the Michigan legislature delayed appropriation of the federal funds until March, tenants and landlords could not apply for the program until April 9, 2021, creating a 3-month gap with little rental assistance available.
- In March 2021, the federal American Rescue Plan Act provided an additional \$21.6 billion in emergency rental assistance.³⁸ As of early May 2021, the federal government has not yet distributed this funding to Michigan.
- The federal government has also provided enhanced unemployment benefits and stimulus payments, which tenants are likely to have used for rent. The American Rescue Plan Act's enhanced child tax credit is likely to be especially helpful to low-income families, who are among those most likely to face eviction.³⁹

As of May 2021, MSHDA had not released data on the Eviction Diversion Program's funding distribution. Anecdotally, legal aid attorneys report that the program quickly distributed available funding, but HARAs varied considerably in effectiveness across the state. MSHDA should publish detailed data on the EDP and on the CERA program going forward, to allow policymakers and advocates to assess whether the programs are distributing funding efficiently and

equitably and to identify ways such programs could be strengthened. This data should include the following information: the number of applications, application outcomes (positive and negative), funds awarded (minimum, mean, median and maximum) and processing time (average, minimum and maximum days) for each HARA; and summaries of applications and funds dispersed by demographic and income groups, and by applicant's census tract. Showing changes over time would be helpful for seeing whether program activities have changed as HARAs passed through a startup phase.

Legal aid attorneys report that local EDPs seemed to work best when local HARA staff attended weekly virtual eviction dockets. This allowed HARA staff to meet briefly with tenants in breakout rooms to tell tenants how to apply for the program or to schedule appointments with tenants when more help is needed. Attending court hearings also helped the HARA staff understand the court process, and some HARA staff provided updates to the judges on the status of tenants' applications, often preventing unnecessary evictions when a tenant's application was pending.

Though the CERA program had just launched at the time of the publication of this report, legal aid attorneys had already raised concerns that some landlords are not participating in the program. If a landlord refuses, the CERA program allows tenants to apply and receive the funding directly. Without the landlord's participation, however, the process will likely take longer and, if tenants are not connected to legal services, legal aid attorneys worry that landlords may not dismiss the eviction cases, even when tenants have received funding and paid their overdue rent. As we noted in the section above, MSHDA should work with HARAs, local governments, local organizations and neighborhood groups to reach out to landlords to ensure they have accurate information about the program's requirements to encourage participation.

³⁵ 2020 PA 123, § 506; Mich. Exec. Order No. 2020-134.

³⁶ "Determining the Distribution of Emergency Rental Assistance Funds from COVID-19 Relief Bill," National Low Income Housing Coalition, January 14, 2021, <https://nlihc.org/sites/default/files/Estimating-the-Distribution-of-Emergency-Rental-Assistance-Funds.pdf>

³⁷ "COVID Emergency Rental Assistance," Michigan State Housing Development Authority, <https://www.michigan.gov/mshda/0,4641,7-141-5555-533463--,00.html>.

³⁸ Douglas Rice and Evelyn Oliva, *Housing Assistance in American Rescue Plan Will Prevent Millions of Evictions* (Washington, DC: Center for Budget and Policy Priorities, March 11, 2021), <https://www.cbpp.org/research/housing/housing-assistance-in-american-rescue-plan-act-will-prevent-millions-of-evictions>.

³⁹ Laura Wheaton, Sarah Minton, Linda Giannarelli and Kelly Dwyer, *2021 Poverty Projections: Assessing Four American Rescue Plan Policies* (Washington, DC: Urban Institute, March 2021), https://www.urban.org/sites/default/files/publication/103794/2021-poverty-projections-assessing-four-american-rescue-plan-policies_0_0.pdf.

Legal aid attorneys have also raised concerns about land contract buyers, who are not eligible for CERA funding and are slipping through the cracks between programs designed for tenants and homeowners. Legal aid attorneys suggest that MSHDA should make land contract buyers eligible for assistance as owners, allowing them to retain their equity and purchase options, and any future federal funding packages should specifically provide funding for land contract buyers.⁴⁰

RECOMMENDATIONS

As the CERA program begins, MSHDA and the Michigan Department of Health and Human Services (MDHHS) should improve the effectiveness of the program by doing the following:⁴¹

- B1.** Develop and implement a communication and outreach plan to ensure that eligible tenants and landlords have accurate information about the program. Such a plan should be implemented in collaboration with local agency and nonprofit and neighborhood organizations and should include:
 - a. Targeted outreach with mailings and door-knocking to encourage tenants and landlords to apply before an eviction case is filed.
 - b. Advertisement through a range of media.
 - c. Funding for entities with existing relationships with tenants and landlords to conduct outreach, including local governments, nonprofit and community-based organizations, and neighborhood associations.
 - d. Engagement with landlords in the planning and evaluation of the program to address landlord concerns and to increase participation in the program.

- e. Outreach targeted to small landlords who likely have smaller profit margins and therefore more difficulty enduring rent shortfall. Such landlords own a substantial percent of rental units, though the exact share is unknown.⁴²
- B2.** Continue engagement with the SCAO and local courts to ensure tenants facing eviction connect to the program at or before their first hearing.
- B3.** Require HARAs to have at least one staff member present in court for eviction dockets to schedule appointments, conduct intakes, or provide tenants information on how to apply for assistance.
- B4.** Provide HARAs with training and guidance to identify cases where HARA staff should refer tenants to legal services. This should include:
 - a. Collaborating with the Michigan Poverty Law Program to train HARA staff to spot legal issues.
 - b. Creating screening protocols identifying the types of cases that should be referred to legal services.
- B5.** Make land contract buyers eligible for CERA as owners, allowing them to retain their equity and ownership options.
- B6.** Release detailed data on EDP and CERA program performance. This data should include:
 - a. For each HARA:
 - i. the number of applications.
 - ii. application outcomes (positive and negative), funds awarded (minimum, mean, median, and maximum).
 - iii. processing time (average, minimum, and maximum days).

⁴⁰ State legislation and regulations also need to do more to protect land contract buyers from quickly losing their equity and experiencing eviction when they miss a payment [Karen Ann Kling and Evelyn Zwiebach, "In Good Faith: Reimagining the Use of Land Contracts" (Policy Brief, University of Michigan Poverty Solutions, Ann Arbor, MI, forthcoming)].

⁴¹ These recommendations draw on the National Low Income Housing Coalition's best practices for emergency rental assistance, Kim Johnson and Rebecca Yae, *Best Practices for State and Local Rental Assistance Programs* (Washington, DC: National Low Income Housing Coalition, January 11, 2021), <https://nlihc.org/sites/default/files/Best-Practices-for-State-and-Local-Emergency-Rental-Assistance-Programs.pdf>; Claudia Aiken, Vincent Reina, Julia Verbrugge, Andrew Aurand, Rebecca Yae, Ingrid Gould Ellen, and Tyler Hauptert, *Learning from Emergency Rental Assistance Programs: Lessons from Fifteen Case Studies* (Washington, DC: NYU Furman Center, The Housing Initiative at Penn, National Low Income Housing Coalition, March 2021), <https://nlihc.org/sites/default/files/ERA-Programs-Case-Study.pdf>.

⁴² Kristen Broady, Wendy Edelberg, and Emily Moss, "An Eviction Moratorium Without Rental Assistance Hurts Smaller Landlords, Too," *Up-Front* (blog), Brookings Institution, Sept. 21, 2020, <https://www.brookings.edu/blog/up-front/2020/09/21/an-eviction-moratorium-without-rental-assistance-hurts-smaller-landlords-too/>; Jung Hyun Choi and Laurie Goodman, "Mounting Pressures on Mom-and-Pop Landlords Could Spell Trouble for the Affordable Rental Market," *Urban Wire* (blog), Urban Institute, Nov. 10, 2020, <https://www.urban.org/urban-wire/mounting-pressures-mom-and-pop-landlords-could-spell-trouble-affordable-rental-market>.



- b. Statewide summaries of applications and funds dispersed by racial, demographic, and income groups and by applicant's census tract.

B7. Monitor and improve HARA performance.

The State of Michigan, MSHDA, and MDHHS should use lessons learned during the pandemic to strengthen the state's emergency rental assistance programs by:

- B8. Increasing permanent funding for emergency rental assistance.**
- B9. Improving and expanding the state's capacity to administer assistance.**
- B10. Removing the requirement that tenants receive a summons and complaint before becoming eligible for state emergency relief funds from MDHHS for overdue rent.**

To aid in the effective administration of the CERA program, the SCAO and local courts should:

- B11. Prohibit landlords from filing an eviction case if a tenant has a CERA application pending.**

Landlords should:

- B12. Engage in the planning and evaluation of emergency rental assistance programs to help assure they take account of landlord needs and to dispel misunderstanding about the benefits of participation for landlords.**

C. EVICTION DIVERSION PROGRAMS AND RIGHT TO COUNSEL

The 2020 report raised concerns about unfairness of Michigan's eviction process and case outcomes, especially given the lack of tenant representation. The report recommended that the State of Michigan establish and fund a guaranteed right to counsel for tenants in eviction cases and eviction diversion programs (EDPs) in every district court within two years. EDPs aim to reduce evictions by connecting tenants with free legal assistance and sources of emergency rental assistance early in the process, when tenants first fall behind on rent or when a case is first filed. The programs are usually partnerships between local courts, legal aid organizations, and local Department of Health and Human Services offices and Housing Assessment and Resource Agencies (HARAs).

UPDATES

In July 2020, the State of Michigan used the CARES Act funding to create a statewide Eviction Diversion Program.⁴³ The program included the \$50 million in rental assistance discussed above and \$4 million for legal assistance. The funding has allowed legal aid organizations and HARAs to hire additional staff. In some areas, this has allowed legal aid and HARA staff to appear at all virtual first hearings and offer to conduct or schedule intakes with all tenants facing eviction. HARAs were also able to provide rental assistance before eviction cases were filed.⁴⁴ This likely kept many cases out of court, but few legal aid attorneys were able to screen these cases for defenses or advise these tenants.

Some jurisdictions, including the City of Detroit and Washtenaw County, used other federal funds they

⁴³ 2020 PA 123, § 506; Mich. Exec. Order No. 2020-134.

⁴⁴ Data are not yet available on the numbers of clients facing eviction who received assistance from HARAs.

received to provide additional funding for legal and emergency rental assistance, supplementing the state programs. In Detroit, this expanded program is called the Detroit Eviction Help program.⁴⁵

Michigan continues to support the statewide EDPs through MSHDA's CERA program. The American Rescue Plan will also provide the state with additional funding, which could be used to provide legal assistance to tenants.

Data collected from July-December 2020 shows that the expanded eviction diversion programs dramatically increased the number of tenants receiving legal assistance and, in cases where attorneys provided extensive assistance, nearly all tenants avoided eviction. The State Bar Foundation collected data on EDP cases involving legal aid attorneys. Key findings from this data include:

- EDP-funded legal aid staff assisted with 15,234 eviction cases, 32% of the eviction cases filed during that time.
- Among the 11,044 completed cases, 54% involved the attorney providing extensive services (e.g. negotiating settlements, providing representation), while 46% were limited to providing the tenants advice on the legal process, how to represent themselves and how to apply for assistance.
- Attorneys provided extensive services to at least 12% of all eviction cases filed during the period covered by the EDP program.⁴⁶
- In the cases where legal aid provided extensive services, 97% of tenants avoided eviction.⁴⁷
- Among the tenants in households assisted by this program, 49% were children — about 12,960 total children.

- Among the individual clients served, 53% were Black, 40% were white, 3% Hispanic, and 1% Native American.

This last point, showing 53% of individuals served were Black when only 14% of the state's population is Black,⁴⁸ strongly suggests that Michigan's eviction crisis disproportionately harms Black households. This would be in line with national research, which has shown Black renters face eviction at higher rates than other racial groups and warrants further investigation to better understand this problem in Michigan and potential responses.⁴⁹

In Detroit, University of Michigan students and staff tracked the first 700 residential eviction cases filed after the expiration of the state's eviction moratorium.⁵⁰ Findings from this data include:

- Two-thirds of these cases were filed for nonpayment of rent.
- As of early February 2021:
 - The court had dismissed two-thirds of the cases (463 of the 700); half of these are without prejudice and half are "conditional upon settlement" between the landlord and the tenant.⁵¹
 - The court had entered eviction judgments in 15% of the cases (104 of the 700).
 - 78% of these judgments were entered by default because the tenants did not appear.
 - Nearly half the judgments were entered for complaints the CDC moratorium does not protect.
 - 19% (133 of 700) of the cases were still pending.

⁴⁵ Joe Guillen, "Duggan, Housing Officials Urge Detroiters Facing Eviction to Seek Help from City Program," *Detroit Free Press*, Aug. 26, 2020.

⁴⁶ This percentage will increase when level of service data are reported for cases still pending at the end of the reporting period.

⁴⁷ "Legal Services - Eviction Diversion Program Case Totals, 7-1-2020 thru 12-31-2020" provided by Jennifer Bentley, Michigan State Bar Foundation.

⁴⁸ U. S. Census Bureau, American Community Survey, 2019 1-year Estimate, Table DP05, <https://data.census.gov/cedsci/pro-file?g=04000000US26>.

⁴⁹ Peter Hepburn, Renee Louis, Matthew Desmond, "Racial and Gender Disparities Among Evicted Americans," *Sociological Science* 7, no. 27 (December 16, 2020): 649-662; Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," *American Journal of Sociology* 118, no. 1 (July 1, 2012): 88-133.

⁵⁰ Landlords filed these cases between August 20 and September 29, 2020. Alexa Eisenberg, email re eviction tracking update — the first 750 cases, to M. Dewar and others, Feb. 8, 2021.

⁵¹ The dismissals carry risk, however, because landlords can file for eviction again or a judge may reopen a case if the tenant does not meet the terms of a payment agreement.

Given the positive impact that the limited emergency funding for legal assistance has had on tenant representation levels and reducing evictions, legal stakeholders urge the state and local governments to guarantee a right to counsel in eviction cases, or at least continue to use new federal funding to expand legal representation. Since the publication of the 2020 report the movement to guarantee a right to counsel in eviction cases has continued to gain momentum. In April 2021, Washington became the first state to guarantee a statewide right to counsel in eviction cases, and seven other states are considering similar legislation.⁵² Three additional cities: Louisville, Kentucky; Boulder, Colorado; and Baltimore, Maryland, have guaranteed a right to counsel in eviction cases, bringing the total to nine cities.⁵³ Studies of these programs continue to document the benefits to both tenants and local governments of tenant representation.⁵⁴

In addition to providing critical representation to tenants in eviction cases, the EDP and CERA programs have provided valuable lessons for future program design. With the EDP's launch, legal aid organizations mobilized quickly to hire new attorneys and many also assigned existing attorneys to the program. Some providers found hiring and training new housing attorneys to be difficult, however, because of the short time period between the funding appropriation and program launch and the short-term nature of the funding, which forced the program to offer contract, rather than permanent positions, limiting the pool of potential applicants.

Legal aid organization directors stressed the need for future programs to have dedicated, multiyear funding that accounts for the time required to build a pool of attorneys interested in practicing housing law and hire, train and manage these attorneys.⁵⁵ These directors also stressed the need to continue to fund legal assistance for homeowners facing mortgage or property tax foreclosures. If those foreclosures occur, the homeowners may face eviction after the loss of their homes.

RECOMMENDATIONS

The **State of Michigan** should:

- C1. Establish and fund right to counsel demonstration projects within one year.
- C2. Establish and fund a guaranteed right to counsel for tenants in eviction cases statewide within two years.
- C3. When crafting these programs, provide dedicated, multiyear funding to improve program implementation.
- C4. Provide funding for legal assistance for homeowners facing mortgage and tax foreclosure.

The **leaders of legal aid organizations** should:

- C5. Gather lessons learned from the statewide Eviction Diversion Program and from other states and cities' right to counsel programs and develop a detailed proposal to strengthen existing eviction diversion programs and to provide a guaranteed right to counsel statewide.

⁵² The eight states are Connecticut, Indiana, Massachusetts, Maryland, Minnesota, Nebraska, South Carolina, and Washington. "2021/2022 Civil Right to Counsel Bills," National Coalition for a Civil Right to Counsel, accessed May 10, 2021, http://civilrightto-counsel.org/legislative_developments/20212022_bills.

⁵³ The seven cities are Baltimore, Boulder, Cleveland, New York City, Newark, Philadelphia, and San Francisco. Sandra Park and John Pollack, "Tenants' Right to Counsel is Critical to Fight Mass Evictions and Advance Race Equity During the Pandemic and Beyond," *News and Commentary*, American Civil Liberties Union, January 12, 2012, <https://www.aclu.org/news/racial-justice/tenants-right-to-counsel-is-critical-to-fight-mass-evictions-and-advance-race-equity-during-the-pandemic-and-beyond/>.

⁵⁴ See 2020 Report, p. 30, fn. 81; "Stout Cost-Benefit Studies," Stout Services, <https://www.stout.com/en/services/transformational-change-consulting/eviction-right-to-counsel-resources>. For instance, a cost-benefit analysis by Stout Risius Ross estimated that a right to counsel in eviction proceedings saved the New York City government hundreds of millions of dollars in costs of sheltering homeless people and in providing services to the unsheltered homeless.

⁵⁵ This feedback mirrors several of the recommendations in a report from the NYU Furman Center based on the implementation of New York City's Universal Right to Counsel [Vicki Been, Deborah Rand, Nicole Summers, and Jessica Yager, "Implementing New York City's Universal Access to Counsel Program: Lessons for Other Jurisdictions," [Policy Brief, New York University Furman Center, New York, December 2018], https://furmancenter.org/files/UAC_Policy_Brief_12_11-18.pdf].

D. EVICTION PROCEDURE CHANGES

The 2020 report suggested that the ease and speed with which landlords could file cases and obtain eviction judgments contributed to Michigan's high eviction filing rate. The Washtenaw County sample showed that 37.1% percent of tenants lost their cases by default because they did not appear in court, only 1.3% percent of cases were heard and decided by a judge and many cases were resolved with "negotiated" settlements, in most cases entered into by self-represented tenants and their landlords' attorneys. Statewide, only 4.8% of tenants facing eviction were represented by attorneys, compared to 83.2% of landlords with representation.

UPDATES

The 2020 report recommended changes to Michigan's eviction process to reduce filings and defaults, connect tenants with legal and social services resources and help tenants exercise their rights in the process. As a result of the pandemic, the SCAO adopted many of the recommendations and made several additional changes to the eviction process:

- The SCAO ordered local courts to schedule each eviction case for a particular date and time, rather than schedule all cases for the same time.⁵⁶ Nearly every court has also moved to virtual hearings for eviction cases.
- The SCAO turned the first hearing in eviction cases into a pretrial hearing where a judicial officer must tell tenants about their right to obtain counsel, the availability of rental assistance and free legal services (if applicable), the possibility of resolving their cases with a conditional order of dismissal and dispute resolution options.⁵⁷ If the tenant appears, the officer must adjourn the

hearing at least 7 days. If a tenant fails to appear but was not personally served, the officer must reschedule the hearing and send notice to the tenant of the new hearing date.⁵⁸

- The SCAO suspended local administrative orders requiring tenants to file a written answer to a landlord's complaint to avoid default⁵⁹ and suspended the requirement that a tenant file a jury demand at the first hearing.⁶⁰
- The SCAO created a priority list of cases for local courts to hear when they reopened and worked through any backlog. The SCAO required courts to hear cases alleging illegal activity and continuing physical injury to the property first, followed by nonpayment of rent cases (with cases alleging longer periods of nonpayment first) and then termination of tenancy cases.⁶¹
- The SCAO ordered local courts not to issue eviction orders in cases covered by the CDC order and required landlords to notify the court if they receive a declaration from a tenant.⁶²
- The SCAO ordered local courts to automatically stay eviction cases if a tenant has applied to the CERA program and notified the Court.⁶³

Before these changes, judges had no obligation to tell tenants about available resources, a tenant's trial could take place at their first hearing, judges adjourned hearings only if a tenant asked for more time and provided good reason and tenants automatically lost by default if they failed to appear at the first hearing (and in "5-day" courts, if they had failed to file a written answer within 5 days of receiving the complaint).

Where local courts are following these orders,⁶⁴ judges and legal aid attorneys tell us that more tenants are appearing, having an opportunity to speak to a judge

⁵⁶ Michigan Supreme Court Administrative Order No. 2020-17(2)(h), https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Administrative%20Orders/2020-08_2021-04-09_FormattedOrder_AmendtA02020-17.pdf; Supreme Court Administrative Office, "Frequently Asked Questions on Administrative Order No. 2020-17," <https://courts.michigan.gov/Administration/SCAO/Resources/Documents/COVID-19/LT-FAQ.pdf>.

⁵⁷ Mich. Supreme Court Admin. Order No. 2020-17(6)-(9);

⁵⁸ Id.

⁵⁹ Id. at (5).

⁶⁰ Id at (10).

⁶¹ Id at (2).

⁶² Id. at (13)

⁶³ Id. at (10).

⁶⁴ Not all courts were following the orders. Christine MacDonald and Joe Guillen, "Thousands Ordered Evicted," *Detroit Free Press*, December 27, 2020.

before resolving their case with their landlord and connecting to rental assistance agencies and legal services, especially when representatives from these organizations are virtually present in the courtroom.

Given the success of these procedural changes, the SCAO and Michigan legislature should make these pandemic-era changes permanent and should adopt further systemic reforms to reduce eviction filings and unnecessary evictions. Specific changes are listed below, but stakeholders should also ask the recently launched Justice For All Task Force to consider further reforms. The Task Force was created by the Michigan Supreme Court and is tasked with, among other things, reviewing the state's eviction process with the goal of increasing access to justice.⁶⁵

RECOMMENDATIONS

The **SCAO** should make permanent the following changes:

- D1. Providing an option for tenants to appear via phone or video conference, at least for first hearings.
- D2. Scheduling cases for specific dates and times, rather than the traditional "cattle call."
- D3. Suspending local rules that require tenants to file a written answer to a landlord's complaint within 5 days to avoid default.
- D4. Making the first hearing in eviction cases a pretrial hearing where a judicial officer informs tenants of resources and basic rights in the process and tenants receive an automatic adjournment to connect to these resources.
- D5. Staying eviction cases when a tenant has applied for emergency rental assistance.
- D6. Allowing representatives from rental assistance and legal services organizations to appear virtually or in person at all first hearings, directing parties to these resources, and providing time and space for these agencies to meet with tenants in the virtual or physical court buildings.

The **SCAO** should also make the following changes:

- D7. Require local courts to include a flyer with contact information for local social and legal service organizations with all summons and complaints served in eviction cases.
- D8. Display within courts Michigan Legal Help-created and SCAO-approved posters, presentations, and videos explaining the court's procedures and litigants' rights.
- D9. Amend the discovery court rules to provide for discovery as of right in summary proceeding cases — meaning, all tenants should have a right to obtain the same information their landlord has about the eviction case.

The **Michigan legislature** should enact legislation to:

- D10. Limit access to eviction records and permanently seal cases that were dismissed or decided in the tenant's favor.
- D11. Extend from 7 to 14 days the notice period before a landlord can file a nonpayment of rent eviction cases.
- D12. Extend the redemption period (the "pay and stay" period) from 10 to 21 days in nonpayment of rent eviction cases.
- D13. Require "just cause" for evictions. "Just cause" (or "good cause") eviction laws limit the basis on which a landlord can file an eviction case to those where they can show good cause, such as nonpayment of rent, property damage, certain criminal activity, or lease violations.
- D14. Eliminate courts' ability to award parties in eviction cases \$75-\$150 in "taxable costs" on top of their actual costs in the case.
- D15. Prevent landlords from charging late fees until the rent is 30 days late and limit the amount of late fees and other charges.
- D16. Deny eviction court relief to landlords whose property does not substantially comply with local building code requirements and with certificate of compliance and/or rental registration requirements.

⁶⁵ Michigan Supreme Court Administrative Order No. 2021-1, "Creation of the Justice for All Commission," https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Administrative%20Orders/2020-32_2021-01-26_Formatte-dOrder_A02021-1.pdf.

- D17. Provide protections for owners of mobile homes facing eviction for nonpayment of a mobile home park's lot rent. For instance, establish a longer redemption period or extend the 90-day period for owners to sell or move their homes after "just cause" evictions to nonpayment of rent evictions.
- D18. Prohibit the Secretary of State from transferring title to a mobile home without an assignment of title.

The **Justice for All Task Force** should:

- D19. Assure that any process reforms that it suggests are informed by the goal of reducing unnecessary evictions, i.e., that court processes be more understandable and accessible to self-represented litigants and that those procedures permit tenants to raise and require courts to consider the tenant's defenses to the eviction.

E. EVICTION DATA

UPDATES

The 2020 Report highlighted the lack of accessible, reliable data on Michigan evictions and recommended that local courts and the SCAO improve the quality and availability of eviction data. The pandemic has shown the urgent need for such data and drawn national attention to the issue.⁶⁶ As other researchers have noted,⁶⁷ without reliable eviction data, policymakers and service providers have struggled to understand how many tenants are at risk of eviction, how much back rent is due, where resources are most needed and what racial disparities might exist in need and access to resources. Moreover, without reliable data it is difficult to assess the effectiveness and equity of eviction prevention interventions.

MSHDA used eviction filing data when distributing the Eviction Diversion Program rental assistance. As described in Part 2, some changes have improved Michigan eviction data:

- The SCAO has published reports on eviction case filings by week and on monthly eviction rates.
- Legal aid providers have collected data on the cases they assisted through the state Eviction Diversion Program. See section 3(C).

In April 2021, the Michigan Supreme Court proposed an administrative order requiring all trial courts to submit all case data to the Judicial Data Warehouse (JDW) in a format and at the frequency defined by SCAO. This is a critical step to improving Michigan eviction data, which should be adopted and implemented as quickly as possible.⁶⁸

RECOMMENDATIONS

Continuing to improve the quality and availability of Michigan eviction data would help policymakers, local governments, and legal and social services agencies track and respond to evictions and assess interventions.

- E1. SCAO should improve the geographic detail in their eviction case filings and eviction reports by summarizing them by county and, if possible, by local jurisdictions.
- E2. The Michigan Supreme Court should adopt the proposed administrative order to require all courts to send data to the Judicial Data Warehouse to facilitate SCAO reporting and research.
- E3. Local courts and SCAO should work together to ensure consistent case outcome codes are included in the JDW and to create and use different case codes for different eviction types (nonpayment of rent, termination, etc.).
- E4. District courts should form data-sharing partnerships with screened entities, governed by agreements to protect privacy and restrict redistribution of the data, to facilitate detailed local analysis of eviction locations and trends. The findings would aid in identifying where efforts to improve programs should focus.

⁶⁶ Yuliya Panfil, Sabiha Zainulbhai, & Tim Robustelli, *Why is Eviction Data so Bad: Recommendations for Improving the Local and National Landscape* (Washington, DC: New America, April 2021), https://d1y8sb8igg2f8e.cloudfront.net/documents/Why_is_Eviction_Data_so_Bad.pdf.

⁶⁷ Peter Hepburn and Yuliya Panfil, "The Black Hole at the Heart of the Eviction Crisis," *New York Times*, January 21, 2021.

⁶⁸ Michigan Supreme Court Proposed Administrative Order No. 2021-14, "Proposed Administrative Order No. 2021-X (Would Mandate that all Trial Courts Submit Case Data to the Judicial Data Warehouse)," https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Court%20Rules/2021-14_2021-04-14_FormattedOrder_PropA02021-X.pdf.

- E5. Given the large number of evictions filed in Detroit's 36th District Court, the Court should work with local legal aid providers, policymakers, and researchers to increase data sharing to facilitate mapping and analyzing this data to better understand and identify ways to reduce Detroit evictions.
- E6. In response to the racial disparities in Michigan evictions,⁶⁹ the SCAO should work with the Michigan Department of Civil Rights to investigate these disparities and develop recommendations to improve data collection about tenant demographics, including race, age, and gender, as part of an effort to address them.⁷⁰

F. TENANT ORGANIZING

UPDATES

Across the state, tenant organizations have formed or become re-energized in response to the increasing threat of eviction and other hardships facing tenants during the pandemic. These groups include the Ann Arbor Tenants Union, Defend Affordable Ypsilanti, Detroit Eviction Defense, Detroit Renter City, Lansing Tenants Union, Grand Rapids Area Tenant Union, and Greater Kalamazoo Renters Union. The work of these organizations has included:

- informing tenants of their rights through social media posts, canvassing, and virtual teach-ins.
- supporting the organization of building-based tenant organizations.
- protesting eviction courts and staging eviction blockades.
- advocating for the extension of the moratoriums and other local, state, and federal policy changes.

The reinvigoration of tenant organizations has the potential to reduce evictions by informing tenants about their rights, empowering tenants to exercise these rights and mobilizing tenants to fight for the systemic changes necessary to significantly reduce eviction filings and evictions. Legal aid providers should support the work of these organizations, the Michigan legislature should enact legislation to protect tenants' right to organize and the federal Department of Housing and Urban Development should spend money Congress has appropriated to support tenant organizing in HUD-subsidized properties.

RECOMMENDATIONS

Legal aid organizations should:

- F1. Provide advice and legal representation to tenant organizations and their members.
- F2. Expand collaborative, community-based approaches to legal services delivery focused on empowering individuals and communities.

The **Michigan legislature** should:

- F3. Strengthen Michigan's statute prohibiting retaliatory eviction for tenant organizing.⁷¹
- F4. Enact a tenants' bill of rights expressly recognizing tenants' right to organize and prohibiting landlord interference with that right.

The federal **Department of Housing and Urban Development (HUD)** should:

- F5. Spend money Congress appropriates annually to the department to support tenant organizing in HUD-subsidized properties.⁷²

⁶⁹ See p. 3 and Section 3(C).

⁷⁰ In Washtenaw County, a citizens' group studied racial disparities in the criminal justice system. In response to their report, the Prosecutor and the Court system have undertaken an independent review of these issues. On February 7, 2021, the *Detroit Free Press* published an editorial describing the Washtenaw process and urging the metro Detroit counties to undertake a similar effort ("Editorial: Racism in the Criminal Justice System Requires Our Attention," *Detroit Free Press*, February 7, 2021). The racial disparities suggested by the Bar Foundation data are more extreme than those from the Washtenaw criminal justice system study.

⁷¹ MCL 600.5720. This statute could be strengthened by removing the requirement that tenants must have attempted to enforce their rights by an "official action" or through a court or government agency to be entitled to a presumption that an eviction is retaliatory.

⁷² Josh Cohen, "HUD Has Money for Tenant Organizing. Why Isn't the Agency Spending It?" *Shelterforce*, March 19, 2021, <https://shelterforce.org/2021/03/19/hud-has-money-for-tenant-organizing-why-isnt-the-agency-spending-it/>.

G. HOUSING AFFORDABILITY

UPDATES

Most tenants face eviction because they have not paid — and cannot pay — their rent. In Michigan, 28% of renter households in 2018 were “extremely low income,” making 30% or less of the area median income where they lived. Eighty-five percent of extremely low income renters were housing “cost burdened,” defined as paying 30% or more of income for housing costs; 69% were “severely cost burdened,” spending more than 50% of income on housing costs. Among “very low income” renters (making 50% of area median income), 74% of households were cost burdened and 25% were severely cost burdened. Only 40 housing units were affordable and available for every 100 extremely low income households. Among very low income households, only 67 affordable and available housing units existed for 100 households. The shortage of affordable, available rental units for extremely low income households amounted to 190,000 units.⁷³ And as national data show, Black and Latinx people make up a disproportionate share of extremely low income renters. Black people are 12% of households but 26% of extremely low income renter households. Latinx people are also 12% of households but 21% of the renter households with extremely low incomes.⁷⁴

The pandemic has increased the number of households that have fallen into the housing-cost-burdened groups due to unemployment and loss of income and has created the threat of huge numbers of evictions. The state’s eviction problem will remain, however, as people return to work and incomes rise because low-income households’ high housing cost burdens will remain.

RECOMMENDATIONS

To reduce the eviction rate, households need more affordable housing and/or more income. Many directions for addressing this challenge exist, a few of which we list here.

To **provide more affordable housing**, the **federal government** should:

- G1. Increase the number of housing choice vouchers. These travel with renter households seeking housing. The household pays 30% of their income for rent and utilities, and the federal government pays the landlord the remainder of rent or the HUD-determined payment standard for that location. Only about one-fourth of households eligible for vouchers received them as of 2017.⁷⁵
- G2. Increase the number of project-based vouchers and similar project-based assistance that ensures longer-term housing affordability. These vouchers or payments are tied to units. The landlord receives the difference between 30% of a renter household’s income and a property rent level that HUD and MSHDA specify.⁷⁶ The payments enable landlords to rent to extremely low income households and still receive a return on investment.
- G3. Increase funding for financing affordable housing development and preservation to enable those projects to serve lower income tenants while covering costs.
- G4. Increase preservation of regulated affordable housing by tightening requirements for opting out of affordability restrictions where rents are rising.

The **state government** should:

- G5. Increase the number of housing vouchers and target some of these to households especially vulnerable to challenges finding housing — returning citizens and those with records of eviction, for instance.⁷⁷

⁷³ “Housing Needs by State/Michigan,” National Low Income Housing Center, last modified 2021, <https://nlihc.org/housing-needs-by-state/michigan>.

⁷⁴ National Low Income Housing Coalition, *The Gap: A Shortage of Affordable Homes*, 2020 (Washington, DC: NLIHC, March 2020), p. 2, https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2020.pdf

⁷⁵ U. S. Department of Housing and Urban Development, “Housing Choice Vouchers Fact Sheet,” https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/about/fact_sheet#6; Center on Budget and Policy Priorities, *Policy Basics: Federal Rental Assistance* (Washington, DC: Center on Budget and Policy Priorities, Nov. 5, 2017), <https://www.cbpp.org/research/housing/federal-rental-assistance>

⁷⁶ U. S. Department of Housing and Urban Development, *Programs of HUD: Major Mortgage, Grant, Assistance and Regulatory Programs* (Washington, DC: HUD, 2020). <https://www.hud.gov/sites/dfiles/Main/documents/HUDPrograms2020.pdf>

⁷⁷ Poverty Task Force, *2021 Poverty Task Force Report* (Lansing, MI: Michigan Department of Labor and Economic Opportunity, 2021), p. 16, https://www.michigan.gov/documents/leo/LEO-Poverty_Task_Force_Report_716585_7.pdf

G6. Increase the funding of the Housing and Community Development Fund (the state's housing trust fund) to increase the state's capacity to provide needed layers of financing to create and preserve more affordable housing for very low-income households.⁷⁸

Local governments should:

G7. Develop plans to address the housing affordability problem through new development and preservation. These plans should make clear the scope and scale of the problem.

G8. Work with community development financial institutions, banks, MSHDA, the local public housing authority, and others to create and coordinate the layering of financial assistance for projects that will serve low-income tenants.

G9. Collaborate with other local governments on regional solutions to providing and preserving affordable housing.

G10. Tie affordability requirements to every project that receives city or quasi-public entities' assistance (such as transfer of land from a land bank).

G11. Support efforts to build the capacity of mission-driven affordable housing providers.

G12. Aid the creation of community land trusts in areas where rents and housing prices are rising substantially.

These recommendations focus on providing affordable rental housing because low-income homeownership is unstable as households find that any change in circumstances means they cannot pay mortgages, utility bills, or property taxes and cannot make emergency home repairs. Purchases often include unfavorable terms that jeopardize ownership.⁷⁹ The types of households most vulnerable to eviction

are also those subject to loss of homes they have purchased. Nevertheless, numerous new programs are enabling very low income individuals to become homeowners. Over time, evaluation will show whether that ownership has provided more stable and perhaps better quality housing than renting would have.

Measures that **increase incomes** would also decrease housing cost burdens and enable more households to pay their rents.

G13. As the Michigan Poverty Task Force recommended, the state should adopt a TANF Shelter Stipend, additional assistance to households receiving TANF who face high housing costs.⁸⁰

G14. The federal government should continue the child tax credit included in the American Rescue Plan that will lift millions of households out of poverty over the next year.⁸¹

G15. Federal and state governments should increase other types of aid included for the near future in the American Rescue Plan, such as SNAP, unemployment benefits, and health insurance subsidies, that can free income to pay for rent. In Michigan, the state administration of such programs has made "access to needed assistance extremely difficult and inadequate," the state Poverty Task Force stated.⁸²



⁷⁸ Ibid. p. 18.

⁷⁹ Shannon Van Zandt and William M. Rohe, "The Sustainability of Low-Income Homeownership: The Incidence of Unexpected Costs and Needed Repairs Among Low-Income Home Buyers," *Housing Policy Debate* 21, no. 2 (2011): 317-34; Christopher E. Herbert and Eric S. Belsky, "The Homeownership Experience of Low-Income and Minority Households: A Review and Synthesis of the Literature," *Cityscape* 10, no. 2 (2008): 5-59/

⁸⁰ Poverty Task Force, *2021 Poverty Task Force Report* (Lansing, MI: Michigan Department of Labor and Economic Opportunity, 2021), p. 12, https://www.michigan.gov/documents/leo/LEO-Poverty_Task_Force_Report_716585_7.pdf.

⁸¹ Laura Wheaton, Sarah Minton, Linda Giannarelli, and Kelly Dwyer, *2021 Poverty Projections: Assessing Four American Rescue Plan Policies* (Washington, DC: Urban Institute, March 2021), https://www.urban.org/sites/default/files/publication/103794/2021-poverty-projections-assessing-four-american-rescue-plan-policies_0_0.pdf.

⁸² Poverty Task Force, *2021 Poverty Task Force Report* (Lansing, MI: Michigan Department of Labor and Economic Opportunity, 2021), p. 9, https://www.michigan.gov/documents/leo/LEO-Poverty_Task_Force_Report_716585_7.pdf.



4. CONCLUSION

The COVID-19 pandemic will have a lasting effect on our society. In Michigan, over 850,000 people have contracted the virus, resulting in more than 18,000 deaths as of early May 2021.⁸³ Many more felt the pandemic's economic impact, which thrust the topic of eviction into policy conversations about how state and federal leaders should respond. As we have described, the response has — thus far — effectively avoided a much-feared eviction tsunami by providing financial support to households and emergency rental assistance to tenants and their landlords and instituting eviction moratoriums. The numbers of eviction case filings and evictions are increasing across the state, however. The recommendations in this report suggest ways to support Michigan households facing eviction

during the economic recovery. Furthermore, many recommendations point the way toward a future with fewer evictions, such as institutionalizing more widely available emergency rental assistance programs, broadening access to legal representation, and making permanent changes to court procedures.

A growing body of social science research documents how eviction causes a range of harmful outcomes and shows eviction disproportionately hurts Black people, Latinx people, women, and families with children.⁸⁴ As a result, policies that address eviction are central to fostering a healthier, more equitable, and more just society. In the post-pandemic world, personal crises — car trouble, a sudden illness, or a lost job — must become less likely to result in lost housing for the state's most vulnerable households.

⁸³ Michigan Coronavirus Dashboard: Vaccines, Cases, Deaths and Maps, *Bridge*, May 6, 2021, updated May 6, https://www.bridgemi.com/michigan-health-watch/coronavirus-tracker-what-michigan-needs-know-now?utm_source=Bridge+Michigan&utm_campaign=cca5bc8a88-Bridge+Newsletter+05%2F6%2F2021&utm_medium=email&utm_term=0_c64a28dd5a-cca5bc8a88-73863777

⁸⁴ Peter Hepburn, Renee Louis, and Matthew Desmond, "Racial and Gender Disparities Among Evicted Americans," *Sociological Science* 7, no. 27 (December 16, 2020): 649-662; Matthew Desmond, "Eviction and the Reproduction of Urban Poverty," *American Journal of Sociology* 118, no. 1 (July 1, 2012): 88-133.

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Greg Abler

Center for Civil Justice*

Elizabeth Benton

Legal Services of South Central Michigan

Kelly Bidelman

Center for Civil Justice

Lorray Brown

Michigan Poverty Law Program

Patrick Cooney

Poverty Solutions, University of Michigan

Margaret Dewar

Poverty Solutions, Taubman College of Architecture & Urban Planning, University of Michigan

Kellie Maki Foster

Lakeshore Legal Aid

Bob Gillett

Michigan State Planning Body

Robert Goodspeed

Taubman College of Architecture and Urban Planning, University of Michigan

Josh Hilgart

Kalamazoo Defender

Caroline Bermudez Jomaa

Legal Aid and Defender

Bonsitu Kitaba

ACLU of Michigan

Hon. Judith Levy

U.S. District Court, E. D. Michigan

Ashley Lowe

Lakeshore Legal Aid

Shannon Lucas

Michigan Advocacy Program

Marilyn Mullane

Michigan Legal Services

Joe McGuire

Detroit Justice Center

Ted Phillips

United Community Housing Coalition

Tonya Myers Phillips

Sugar Law Center

Elizabeth Rios

Legal Services of South Central Michigan

Jim Schaafsma

Michigan Poverty Law Program

Karen Tjapkes

Legal Aid of Western Michigan

Angela Tripp

Michigan Legal Help

*Organizations listed for identification purposes only.

APPENDIX

This appendix, drawn from our 2020 report, provides an introduction to Michigan's legal eviction process, indicating key terms in bold, which are also defined in the following glossary.

OVERVIEW OF MICHIGAN'S LEGAL EVICTION PROCESS

An **eviction case** is a civil lawsuit that allows a property owner to regain possession of a premises.⁸⁵ In Michigan, eviction cases include residential landlord/tenant evictions, commercial evictions, land contract forfeitures, evictions of tenants and owners of mobile homes by mobile home parks, and evictions filed after mortgage, condominium fee, and property tax foreclosures. In this report, we will refer to all property owners filing eviction cases as "landlords."

State law creates a special, expedited court process for eviction cases, called summary proceedings.⁸⁶ This means that landlords are able to get into court and have their cases resolved faster than in ordinary lawsuits.

Before filing an eviction case, a landlord must give a tenant a **notice to quit** or **demand for possession**.⁸⁷ The notice or demand gives a set amount of time, which is determined by state law, before the eviction suit can be filed with the court (see box). In some cases, it also tells tenants what they can do to prevent an eviction — for example, pay their rent within seven days if they are being evicted for nonpayment of rent.

NOTICE TO QUIT/DEMAND FOR POSSESSION TIME PERIODS

No notice required:

- Forceful entry/forceful stay/trespass by occupant⁸⁸

24-hour notice is required for the following reason:

- Illegal drug activity where formal police report filed⁸⁹

7-day notice is required for the following reasons:

- Nonpayment of rent⁹⁰
- Extensive and continuing physical injury to property⁹¹
- Serious and continuing health hazard⁹²
- Causing or threatening physical injury to another⁹³

14-day notice is required for the following reasons:

- Nonpayment of rent for public housing⁹⁴

30-day notice is required for the following reasons:

- Termination of month-to-month tenancy⁹⁵
- Violation of a lease provision on a lease that allows for termination
- Just cause for terminating tenant of mobile home park⁹⁶
- Just cause for terminating tenancy of government-subsidized housing⁹⁷

⁸⁵ MCL 600.5701(b). In Michigan, "'premises' includes lands, tenements, condominium property, cooperative apartments, air rights and all manner of real property. It [also] includes structures fixed or mobile, temporary or permanent, vessels, mobile trailer homes and vehicles which are used or intended for use primarily as a dwelling or as a place for commercial or industrial operations or storage."

⁸⁶ MCL 600.5701, et seq; MCR 4.201 and 4.202.

⁸⁷ MCL 600.5714, 5716, 5718, 5726. See e.g., State Court Administrative Office, Numerical Index of Approved District Court Forms, <https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/dc100a.pdf> and <https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/dc100c.pdf>.

⁸⁸ MCL 600.5714(1)(f).

⁸⁹ MCL 554.134(4); MCL 600.5714(1)(b).

⁹⁰ MCL 554.134(2).

⁹¹ MCL 600.5714(1)(d).

⁹² Id.

⁹³ MCL 5714(1)(e).

⁹⁴ 42 USC 1437d(l)(4)(B); 24 CFR 966.4(l)(3)(i)(A).

⁹⁵ MCL 554.134(1); MCL 600.5714(1)(a).

⁹⁶ MCL 600.5775.

⁹⁷ See e.g., 24 USC 1437d(l)(4)(C); 24 CFR 966.4(l)(4)(i)(C)(public housing); 24 CFR 247.4(c)(project-based Section 8); 24 CFR 880.607(c)(2); 24 CFR 881.601 (New Construction and Substantial Rehabilitation).

After the time period in the notice expires, the landlord can file a **complaint** in the local district or municipal court where the property is located.⁹⁸ In the complaint, the landlord asks the court to award the landlord possession of the property. The complaint can also include a claim for money damages related to the tenant's breach of the lease or damage to the property.⁹⁹ Such money claims usually seek any unpaid rent from the tenant.

The landlord must pay the court a filing fee in each case. In 2019, the filing fee for a case where the landlord only sought possession of the property was \$45.¹⁰⁰ If a landlord is also filing a claim for money damages, the landlord must pay an additional \$25-\$150 per case based on the amount of money damages sought.¹⁰¹ If a landlord wins the case, the court may require the tenant to cover this fee and the cost of service of the complaint.¹⁰² The court may also require the tenant to pay an additional \$75-\$150, depending on how the case is resolved, to the landlord in "taxable costs."¹⁰³

After the landlord files the complaint with the court, the landlord sends a copy of the complaint along with a **summons** to the tenant.¹⁰⁴ In most cases, the summons tells the tenant to appear in court on a certain day and time for a **hearing**.¹⁰⁵ The hearing

date could be as soon as three days after the landlord serves the summons and complaint.¹⁰⁶ Seven district courts¹⁰⁷ have adopted a local practice that requires tenants to file a written answer to the landlord's complaint before the court will schedule a hearing. In these courts, if the tenant does not file a written answer within five days of receiving the complaint, the tenant will not get a court hearing, and the court will automatically issue a default judgment for possession for the landlord. Courts with this practice are generally referred to as "5-day" district courts.

The tenant must appear in court on the hearing date. If the tenant does not appear, the judge enters a **default judgment** for possession to the landlord.¹⁰⁸ If the tenant appears, the judge can hold the **trial** immediately or, if the tenant shows good cause, reschedule the trial to a future date.¹⁰⁹ The tenant can **answer** — that is, respond and raise defenses to — the landlord's complaint either in writing or orally (except in the "5-day" district courts, where they must answer in writing).¹¹⁰ Tenants can also raise **counterclaims** against their landlords.¹¹¹

Tenants are entitled to a trial and can choose whether to have their trial heard by a judge or jury.¹¹² The landlord has the burden at trial of proving to the judge or jury that the tenant has done what the landlord alleges, such as not paying rent, and that the landlord

⁹⁸ MCL 600.5735, 5704 and 5706; MCR 4.201(B). See State Court Administrative Office, Numerical Index of Approved District Court Forms, <https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/dc104.pdf>. There are over 100 district courts in Michigan and four municipal courts. In Michigan, a few municipalities have chosen to retain a municipal court rather than create a district court. The municipal courts have limited powers and are located in Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Pointe Shores/Grosse Pointe Woods. In addition to eviction cases, district courts handle most traffic violations, all civil cases with claims up to \$25,000, small claims and all misdemeanor criminal cases — that is, criminal cases where the accused, if found guilty, cannot be sentenced to more than one year in jail. <https://courts.michigan.gov/courts/trialcourts/pages/default.aspx>.

⁹⁹ MCL 600.5739; MCR 4.201(G)(1)(a).

¹⁰⁰ MCL 600.5756; "District Court Filing Fee and Assessment Table," SCAO, January 2019, <https://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/dfee.pdf>.

¹⁰¹ Id.

¹⁰² MCL 600.5759.

¹⁰³ Id. Though the legislation states that the court has discretion in imposing these additional costs on tenants, in practice, they are included in every default and consent judgment.

¹⁰⁴ MCR 4.201(D). See State Court Administrative Office, Numerical Index of Approved District Court Forms, <https://courts.michigan.gov/Administration/SCAO/Forms/courtforms/dc104.pdf>.

¹⁰⁵ MCL 600.5735(1); MCR 4.201(C).

¹⁰⁶ MCL 600.5735(2); MCR 4.201(C).

¹⁰⁷ 1st District: Monroe County; District 2A: Lenawee County; 12th District: Jackson County; 18th District: City of Westland; 81st District: Alcona, Arenac, Iosco and Oscoda Counties; 82nd District: Ogemaw County; District 95B: Dickinson and Iron Counties.

¹⁰⁸ MCR 4.201(F)(4). If the tenant has been personally served with the complaint, the court will also enter a default judgment to the landlord on its claim for money damages. MCR 4.201(G)(1)(b).

¹⁰⁹ MCL 600.5735(6); MCR 4.201(J).

¹¹⁰ MCR 4.201(F).

¹¹¹ MCR 4.201(G)(1).

¹¹² Id.; MCL 600.5738.

is entitled to regain possession of the premises.¹¹³ If a party has raised money claims, the judge or jury would also decide whether either party is entitled to money damages.

Our data show that in practice, most tenants who appear at the hearing agree to **consent judgments** with their landlords, resolving the case without a trial. If either party is unrepresented, the judge is required to review the consent judgment with the party and notify them that they have three days to ask the court to set aside the judgment.¹¹⁴ The court may set aside the judgment if an unrepresented party files a motion within three days asking the court to set aside the judgment and shows that they misunderstood the basis for the judgment or the rights they were relinquishing by signing.¹¹⁵

In nonpayment cases, if the landlord obtains a judgment for possession, the tenant has 10 days to pay the full amount of back rent plus any costs and

fees awarded.¹¹⁶ If the tenant pays this amount, the tenant cannot be evicted. This is called the tenant's "right to redeem," or more informally, the tenant's right to "pay and stay."

If the tenant does not pay in a nonpayment case, and in most other cases, the landlord can file an **application for an order of eviction** with the court 10 days after the court issues the judgment.¹¹⁷ The Court then issues an **order of eviction**, which allows a court officer, bailiff, sheriff, deputy sheriff, or police officer to remove the tenant and all of the tenant's personal property from the property and place it in the public right-of-way (usually the side of the street).¹¹⁸ In nonpayment cases, the entire eviction process — from a missed rental payment to the physical removal of the tenant — could take place in 27 days.



¹¹³ Rathnaw v Hatch, 281 Mich 402, 404 (1937).

¹¹⁴ MCR 4.201(I).

¹¹⁵ Id.

¹¹⁶ MCL 600.5741; MCL 600.5744.

¹¹⁷ MCL 600.5744(4); MCR 4.201(L)(1). The Court can issue an order of eviction immediately after entering a judgment for possession in certain, specific circumstances. See MCL 600.5744(2).

¹¹⁸ MCL 600.5744; MCR 4.201(L).

GLOSSARY OF KEY TERMS

Eviction-related terminology varies due to differences in state law, as well as decisions by researchers for how to define key terms. Therefore, this section introduces a common set of definitions used in this report.

ANSWER: The document a tenant files with the court responding to a landlord's complaint. In the answer, the tenant can deny the landlord's allegations and raise defenses to the landlord's claims.

COMPLAINT: The document a landlord files with the court to start a lawsuit. It must state the facts the suit is based on, each legal claim or allegation and what the landlord hopes to get from the suit. A landlord can ask for possession of the property, a money judgment, or both.

CONSENT JUDGMENT: A judgment with terms agreed to by both parties and made an order of the court.

COUNTERCLAIMS: Claims raised by a tenant against a landlord in an eviction suit. The tenant can ask for money damages or other relief, such as an order that a landlord fix problems in the property. Counterclaims are filed with the tenant's answer and can be used to offset the rent the landlord alleges is due.

DEFAULT JUDGMENT: A judgment entered by the court if a tenant does not appear at the first hearing and the landlord shows a reason for the eviction of the tenant.

DEMAND FOR POSSESSION: The formal notice a landlord is required to give a tenant before starting an eviction lawsuit when evicting for nonpayment of rent; causing damage or a health hazard; unlawful drug activity; or removal from a mobile home park. The notice gives an amount of time set by state law before the eviction suit can be filed with the court.

DISMISSAL: A document ending a lawsuit. Four types of dismissals exist: (1) a voluntary dismissal, where the landlord dismisses the lawsuit before the tenant has appeared or answered; (2) a consent order of dismissal where the landlord and tenant agree to dismiss the case; (3) a conditional order of dismissal, where the landlord and tenant agree that the case

will remain dismissed so long as certain conditions are met (e.g. the landlord makes repairs or the tenant pays back rent); and (4) an order of dismissal, where the judge dismisses the case, such as when the landlord does not appear or the court does not have jurisdiction over the case.

EVICITION CASE: A lawsuit filed by a landlord to regain possession of a premises.

EVICITION FILING: The act of a landlord filing a complaint to begin an eviction case.

EVICITION FILING RATE: The number of eviction filings per 100 renter households in an area. An eviction filing rate of 5% means that 5 of every 100 renter households had an eviction filing in the selected area that year.

EVICITION: The physical removal of the tenant and the tenant's belongings from a landlord's property by a court officer with an order of eviction.

EVICITION RATE: The number of evictions per 100 renter homes in an area. An eviction rate of 5% means that 5 of every 100 renter homes had an eviction in the selected area that year.

HEARING: A brief court session that resolves specific questions, such as when the trial should take place or whether the case should be dismissed.

INVOLUNTARY MOVE: Any move that is a consequence of landlord-generated change or threat of change in the conditions of occupancy of a premises. A tenant might involuntarily move, for example, because of an unaffordable rent increase, letter from landlord alleging violation of the lease, uninhabitable conditions, or a utility shutoff. An involuntary move would also include a move at any time during an eviction case before the landlord uses the order of eviction to remove the tenant and the tenant's belongings.

JUDGMENT: A court document recording the outcome of a lawsuit. If a landlord wins the eviction suit, the judgment will be for possession to the landlord. If the landlord brought a claim for money damages, the judgment would also include an amount of money the tenant owes the landlord. If a tenant wins the eviction suit, the judgment will be for possession to the

tenant. If the tenant brings counterclaims against the landlord, the judgment would also include an amount of money the landlord owes the tenant.

JURY TRIAL: A trial where a group of citizens decides which side should win based on the evidence.

MOTION: A formal request for a judge to enter a particular order or ruling in a lawsuit.

NOTICE TO QUIT: The formal notice a landlord is required to give a tenant before starting an eviction lawsuit when evicting by terminating tenancy. This notice must be given within a set amount of time set by state law before an eviction suit can be filed with the court.

ORDER OF EVICTION: A court document issued by a judge after the court has issued a judgment for possession to the landlord. This document is given to a court officer, such as a sheriff or deputy sheriff, and gives that officer authority to remove the tenant and the tenant's belongings from the landlord's property.

SUMMARY PROCEEDINGS: An abbreviated civil court process that allows a landlord to regain possession of a premises and obtain related relief. Summary proceedings are created and governed by state law and court rules.

SUMMONS: A court form telling the tenant about a lawsuit and that a response or an appearance in court is required.